

REMARKS

I. INTRODUCTION

Claims 16-26 and 28-32 are pending in the present application. The status of the claims was incorrectly stated in the Final Office Action, which lists claims 1-26 and 28-32 as pending. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 16-18, 20-22, 24, 25 and 32 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,540,137 to Forsythe et al. ("Forsythe") in view of U.S. Patent Application Publication No. 2003/0018550 to Rotman et al. ("Rotman") and further in view of U.S. Patent No. 5,493,315 to Atchley. (See 4/05/07 Office Action, p. 2, ¶ 3).

Initially, Applicants note that the filing date of Rotman is February 21, 2001, and, as such, Rotman is not prior art. It appears the Examiner is relying on the filing date of the related Provisional Application 60/183,757. However, a review of that application shows that it does not include all the disclosure of Rotman. Specifically, it does not include the disclosure being relied on by the Examiner to reject the claims. Accordingly, Applicants respectfully submit that the rejection is improper. However, with a view to expediency, Applicants will address the rejection on the merits.

Forsythe describes a checkout system 10 which is operable in an assisted checkout transaction aided by personnel at a retail store or a self-service checkout transaction performed solely by a customer. (See Forsythe, col. 40, lines 45-51). The system 10 includes a customer interface terminal 78 which consists of a display monitor 78a, a scanner 24 and an electronic

payment terminal 44. (Id. at col. 41, lines 15-20; col. 42, line 66 - col. 43, line 7). During the self-service checkout transaction, the customer scans items and views item prices and a total on the display monitor 78a. (Id. at col. 17, lines 14-27). An advertisement corresponding to one of the items or a customer profile loaded in an in-store network is shown on the display monitor 78a. (Id. at col. 17, lines 28-50). Payment is made via a currency acceptor or charging a credit/debit card at the electronic payment terminal 44. (Id. at col. 11, lines 30-63).

Rotman describes a system for providing near real-time market information predictions based on money flow maps derived from payment transaction information. (See Rotman, ¶ [0024]). During a payment transaction, a merchant computes a transaction total based on goods and services selected by a customer. (Id. at ¶ [0058]). The transaction total is forwarded to a credit card clearinghouse, which in turn, forwards the total to a credit card issuer to seek approval of the total. (Id. at ¶ [0058]). If the transaction is approved, the transaction total is put into a transactional database. (Id. at ¶ [0058]). Information in the transactional database is scaled and normalized so that it may be applied “to known or newly created models for predicting financial metrics, such as stock price, interest rates or commodity supplies. (Id. at ¶ [0057]).

Atchley describes an apparatus for displaying video information, such video messages relating to the sale of a carwash. (See Atchley, col. 4, lines 45-57). Using a keypad, a user may select from various options associated with his carwash, including a hot wax, tire scrub, or drying. Messages on a screen are used to prompt the user to insert cash when necessary. (Id.).

Claim 16 recites a method which includes the steps of “receiving, via the communications link of the customer-response unit, content for presentation at the customer-response unit during the transaction, *wherein the content is unrelated to data essential for completion of the transaction*” and “displaying the content on a display of the customer-response unit, *wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit.*”

In the Final Office Action, the Examiner cites Atchley in support of the teaching that a user can immediately respond to content. (See 4/05/07 Office Action, p. 9, ¶ 5). The Examiner asserts that Forsythe teaches displaying of advertisements in order to encourage customers to purchase more goods, and further asserts that if the customer sees an advertisement, the customer may pick up the item while checkout is in progress. (Id.). However, it is respectfully submitted that Forsythe (or any of the other references) fail to either disclose or suggest “an indication that a customer can immediately respond to the content by interacting with the customer-response unit,” as recited in claim 16. An advertisement merely conveys to the customer that the customer has an option to purchase the item being advertised. This option may be exercised at any time. However, if the customer is to add the item to the current transaction, the item must first be retrieved before being added. Thus, this is not an immediate response that constitutes an interaction with a customer-response unit.

The Examiner asserts that it is possible to add the item to the total cost of the purchase, thereby allowing the checkout process to continue while the customer goes to retrieve the item. The Examiner also states that “[o]ne would be motivated to include this feature in order . . . to clearly recognize that additional items are to be added to the customer’s purchase. Additionally, the price of the added items may be easily totally [*sic*] up so the customer will know the total cost of his/her purchase.” (See 4/05/07 Office Action, pp. 6-7). Nowhere is this supported or suggested by Forsythe, which requires that items be physically scanned using a mounted scanner. (See Forsythe, col. 4, lines 25-30). Without scanning the item, the item cannot be added to the transaction. Scanning the item is also consistent with the self-checkout mode of operation described by Forsythe. Furthermore, it would be of no benefit to the customer to know the additional cost of the item being retrieved because the remaining items being purchased have yet to be scanned. It would also be logical that the customer should have the opportunity to decide whether or not to purchase the item (e.g., a chance to examine the item), how much of the item should be purchased, etc. while enroute to retrieving the item. Based on these reasons, it is not possible for the customer to “immediately respond” to the advertisement if the customer has to retrieve the item. Thus, it is respectfully submitted that neither Forsythe, nor Rotman nor

Atchley, either alone or in combination, discloses or suggests “an indication that a customer can immediately respond to the content by interacting with the customer-response unit,” as recited in claim 16.

The Examiner also contends that the recitation “wherein the content is unrelated to data essential for completion of the transaction,” as recited in claim 16, only limits the displayed content to being unrelated to the transaction rather than limiting the customer’s interaction. Applicants respectfully disagree with this contention because it is the displayed content which induces the customer to interact. In the hypothetical example described above with reference to Forsythe, the customer would view the advertisement, retrieve the advertised item and add the item to the transaction by scanning it. Thus, if the customer decides to purchase the item, then the advertisement is related to data essential for completion of the transaction (i.e., item data). Thus, it is respectfully submitted that neither Forsythe, nor Rotman nor Atchley, either alone or in combination, discloses or suggests “wherein the content is unrelated to data essential for completion of the transaction,” as recited in claim 16.

In addition, the retail transaction described by Forsythe is different from the context of Atchley, where the customer selects a customized service package and does not need to temporarily abandon the transaction in order to retrieve an item. In contrast, Forsythe’s transaction can be completed without the use of any interactive content. In the context of retail transactions, it is also undesirable to induce delays and lengthy checkout queues by allowing the customer to stop in the midst of the transaction to retrieve the item. Thus, it is respectfully submitted that there is no motivation to combine Atchley with Forsythe by making the advertisements of Forsythe interactive.

Based on these reasons, it is respectfully submitted that neither Forsythe, nor Rotman nor Atchley, either alone or in combination, disclose or suggest “receiving, via the communications link of the customer-response unit, content for presentation at the customer-response unit during the transaction, wherein the content is unrelated to data essential for completion of the

transaction” and “displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit,” as recited in claim 16. Because claims 17-18, 20-22 and 24-25 depend from, and, therefore include the limitations of claim 16, it is respectfully submitted that these claims are also allowable.

Claim 32 recites limitations substantially similar to those of claim 16, including “receiving, via the communications link of the customer-response unit, content for presentation at the customer-response unit during the transaction, wherein the content is unrelated to data essential for completion of the transaction” and “displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit.” Thus, it is respectfully submitted that claim 32 is allowable for at least the same reasons as discussed above with reference to claim 16.

Claims 19, 23, 26 and 28-31 stand rejected under 35 U.S.C. 103(a) as unpatentable over Forsythe in view of Atchley and Rotman and further in view of U.S. Patent Application Publication No. 2003/0126020 to Smith et al. (“Smith”). (See 4/05/07 Office Action, p. 8, ¶ 4).

Claim 26 recites a system for conducting a transaction which includes a customer-response unit comprising “a display for presenting the content, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit” and “a customer interface for receiving and recording customer input, customer responses and customer non-responses to the content, wherein the responses and the non-responses are transmitted to an advertisement server in order to collect information about the customer.” As discussed above with reference to claim 16, neither Forsythe, nor Rotman nor Atchley, either alone or in combination, disclose or suggest “receiving, via the communications link of the customer-response unit, content for presentation at the customer-response unit during the transaction, *wherein the content is unrelated to data essential for completion of the*

transaction” and “displaying the content on a display of the customer-response unit, wherein the display includes an indication that a customer can immediately respond to the content by interacting with the customer-response unit.”

Smith is directed to a method for the generation and transmission of electronic receipts. (See Smith, Abstract). As such, Smith does not cure the deficiencies of Forsythe, Rotman and Atchley. Therefore, it is respectfully submitted that neither Forsythe, nor Rotman, nor Atchley nor Smith, either alone or in combination, disclose or suggest “a customer interface for receiving and recording customer input, customer responses and customer non-responses to the content, wherein the responses and the non-responses are transmitted to an advertisement server in order to collect information about the customer,” as recited in claim 26.


Because claims 28-31, depend from, and, therefore include the limitations of claim 26, it is respectfully submitted that these claims are allowable for at least the reasons stated above with reference to claim 26. Because claims 19 and 23 depend from, and, therefore include the limitations of claim 16, it is respectfully submitted that these claims are allowable for the same reasons as stated above with reference to claim 16.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: June 5, 2007


By: _____
Oleg F. Kaplun (Reg. No. 45,559)
Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276